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PTO/SB/64 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
603400-00043

First named inventor: Timothy Hewitt, et al.

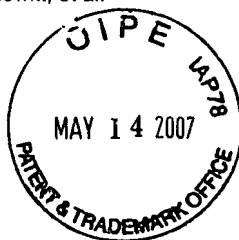
Application No.: 10/657,289

Art Unit: 3724

Filed: September 8, 2003

Examiner: Kenneth E. Peterson

Title: FENCE



Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))
2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of a Request for Continued Examination (RCE) with Amendment (identify type of reply):

☐ has been filed previously on _____
☒ is enclosed herewith.

03/16/2007 TBESHAM1 00000304 10657289

01 FC:1453

1500.00 OP

B. The issue fee and publication fee (if applicable) of \$ _____.

☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

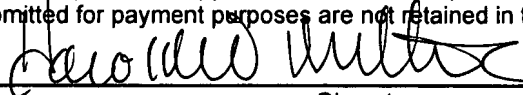
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

May 14, 2007

Date

Harold W. Milton, Jr.

Typed or printed name

22,180

Registration Number, if applicable

Dickinson Wright, PLLC

Address

38525 Woodward Ave., Ste. 2000
Bloomfield Hills, MI 48304-5092

Address

248-433-7385

Telephone Number

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

4/14/2007

Date


Signature

Harold W. Milton, Jr.

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/657,289
Filing Date: September 8, 2003
Applicant(s): Timothy Hewitt, et al.
Group Art Unit: 3724
Examiner: Kenneth E. Peterson
Title: FENCE
Attorney Docket No.: 603400-00043

**PETITION FOR REVIVAL DUE TO UNINTENTIONAL
DELAY UNDER 37 C.F.R. §1.137(b)**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Office communication mailed on December 8, 2005; the Notice of Panel Decision from Pre-Appeal Brief Review mailed on December 6, 2005; and the Office Action mailed on August 23, 2005. Applicants submit this Petition for Revival Due to Unintentional Delay as is permitted under 37 C.F.R. §1.137(b).

Certificate of Express Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (Label No. **EV 840359782 US**, postage prepaid, in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on **May 14, 2007** by the undersigned.

 (Susan K. Olson)

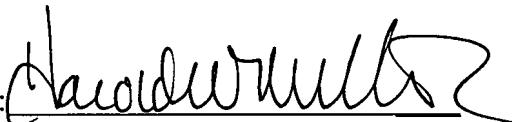
Applicants assert that the entire delay in filing this required reply was unintentional. Therefore, Applicants respectfully request revival of the application and acceptance of the enclosed Amendment in a Request for Continued Examination, which is being filed concurrently with this petition.

A check in the amount of \$1,500.00 is enclosed herewith to cover the necessary fees. The Commissioner is hereby authorized to charge any deficiency fees or credit any overpayment of fees to Deposit Account No. 04-1061, in the name of Dickinson Wright, PLLC.

Respectfully submitted,

DICKINSON WRIGHT PLLC

Date: May 14, 2007

By: 
Harold W. Milton, Jr.
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